IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.513 OF 1992

Mahadevi Manohar Sakhare ...Appellant.

V/s

1. Manohar Yeshwant Sakhare
2. Mahadevi Manohar Sakhare
3. Yeshwant Shivlingappa Sakhare
4. Bhagareva Yeshwant Sakhare
5. Genyappa Sidgondas Bugde.
6. Balavva Genyappa Bugade
7. Sidram Narayan Birajdar
8. Bhagabai Sidram Birajdar
9. Sangappa Revappa Swami
10. The State of Maharashtra ...Respondents.

Mr. S.M. Dange, advocate for the appellant.

Mr. S.G. Deshmukh, advocate for respondent Nos. 1 to 9

Mr. D.P. Adsule, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 3rd February, 1992

ORAL JUDGMENT:

1. This appeal is filed by the original complainant Mahadevi Manohar Sakhare being aggrieved by the judgment and order dated 27/3/1991 passed by the Judicial Magistrate, First Class, Mangalwedha, Solapur in Criminal Case No.64 of 1989. By the said judgment and order the Trial Court was pleased to acquit the respondents - original accused Nos. 1 to 9 of the offence punishable under section 494 read with section 34 of the Indian Penal Code.

2. Brief facts are that respondent No.1 - Manohar Yashwant Sakhare married the appellant and during subsistence of the first marriage, without obtaining divorce, he married again and this marriage was performed by the the priest with the active assistance of the other accused.

3. The complainant filed private complaint in the Court of Judicial Magistrate First Class at Mangalwedha. A charge was framed against the accused. The complainant examined herself and examined two other witnesses viz. C.W. 2 - Shankar Sakhare and C.W. 3 - Mahadeo Sakhare. C.W.1 has stated in her evidence that she learnt about the marriage of accused No.1 from these two witnesses. She informed them that she had not given divorce to accused No.1. C.W. 2 - Shankar has stated in his evidence that on the date of the incident he was proceeding to village Maravade and he had gone to the house of Mahadeo. There, he saw that the marriage ceremony of the accused No.1 was being performed with the daughter of one Bugade. He stated that when he went there, ceremony of winding of thread was going on and bride and bridegroom were given bath and termaric was applied to both of them. Then they were taken to the marriage plat-form where clothes were presented to the bride and bridegroom and

the accused No.9 performed religious ceremony. Pan-supari were distributed and, thereafter, meals were given to the persons who were present there. P.W.3 also in his evidence has stated that when he went there, ceremony of winding cotton threads to the Kalash was going on and the accused Nos. 1 and 2 were given presents and, thereafter, meals were given to the people who were present. From the evidence of both these witnesses, it can be seen that they have not seen the priest performing Vaidik Rites of marriage ceremony. They have not deposed that the accused No.1 and his wife performed Saptapadi and Hom which are essential prerequisites of Vaidik marriage. In the absence of any evidence to show that Vaidik Rites were performed such as Saptapadi and Hom, it cannot be said that the accused had legally married for the second time. One of the essential ingredients of the offence of Begami is that during the subsistence of the first marriage, it is the duty of the complainant to prove that the accused had legally married again for the second time. Mere exchange of garlands or exchange of wrings or performing some other ceremony will not amount to valid marriage between the parties. Thus the complainant has utterly failed to establish that the accused No.1 had legally performed a valid marriage ceremony for the second

time. The Trial Court, in my view, has correctly appreciated the evidence on record and has held that the complainant has not proved that there was a proper valid marriage between the accused No.1 and his alleged second wife. There is no reason to interfere with the said order passed by the Trial Court. Appeal is accordingly dismissed.

V.M. KANADE, J.